

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRADLEY D. LAMPKINS,

Plaintiff,

v.

**CENTER OF SCIENCE AND
INDUSTRY (COSI),**

Defendant.

Case No. 2:24-cv-3026

Judge Edmund A. Sargus, Jr.

Magistrate Judge Peter B. Silvain, Jr.

ORDER

This matter is before the Court on the Report and Recommendations issued by the Magistrate Judge on December 18, 2024. (R&R, ECF No. 20.) Plaintiff Bradley D. Lampkins filed his Complaint against Defendant Center of Science and Industry (“COSI”) in May 2024. (ECF No. 1.) Two days later he filed an Amended Complaint alleging that COSI used a photo of him from when he was a minor as a marketing tool. (ECF No. 3.) In July 2024, COSI moved to dismiss Mr. Lampkins’s Amended Complaint for failing to state a claim upon which relief can be granted under Rule 12(b)(6) of the Federal Rules of Civil Procedure. (ECF No. 11.) In response, Mr. Lampkins filed both a Motion for Leave to File an Amended Claim and “Plaintiff’s]s Objection to Defense Motion.” (ECF Nos. 15, 16.) COSI opposes Mr. Lampkins’s request for leave to amend his Complaint as futile. (ECF No. 17.) COSI also replied in support of its Motion to Dismiss. (ECF No. 18.)

Upon review of both motions, the Magistrate Judge recommended that the Motion for Leave to File an Amended Claim be denied and that the Motion to Dismiss be granted. (R&R, PageID 128.) The Magistrate Judge recommended that Mr. Lampkins’s 42 U.S.C. § 1983 claims be dismissed with prejudice and that the Court decline to exercise supplemental jurisdiction and dismiss without prejudice the state-law claims. (*Id.*)

Once a magistrate judge issues a report and recommendation, the relevant statute provides:

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1). The failure to file written objections to a magistrate judge's report and recommendation waives a de novo determination by the district court of any issues addressed in the report and recommendation. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see also United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981).

Mr. Lampkins was advised of his right to object to the R&R and of the consequences of failing to do so. (R&R, PageID 119, n.1.) The Court granted Mr. Lampkins an extension to file an objection to the R&R, but Mr. Lampkins failed to file an objection, and the time to do so has passed. (See ECF Nos. 21, 22.) Accordingly, Mr. Lampkins waived a de novo review of the R&R.

The Court has reviewed the R&R, agrees with the recommendations stated therein, and **ADOPTS** and **AFFIRMS** the R&R. (ECF No. 20.) Mr. Lampkins's Motion for Leave to File an Amended Claim (ECF No. 15) is **DENIED**. COSI's Motion to Dismiss (ECF No. 11) is **GRANTED**. Mr. Lampkins's claims under 42 U.S.C. § 1983 are **DISMISSED with prejudice**. The Court declines to exercise supplemental jurisdiction over his state-law claims under 28 U.S.C. § 1367, and his state-law claims are **DISMISSED without prejudice**.

The Clerk is directed to enter judgment and close this case.

IT IS SO ORDERED.

2/24/2025
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE